

IN THE COURT OF APPEALS OF IOWA

No. 8-002 / 07-1968
Filed January 30, 2008

**IN THE INTEREST OF A.S.W.,
Minor Child,**

**E.M.F., Mother,
Appellant.**

Appeal from the Iowa District Court for Linn County, Susan Flaherty,
Associate Juvenile Judge.

A mother appeals from the order terminating her parental rights.

AFFIRMED.

John Jacobsen, Cedar Rapids, for appellant mother.

James Moriarty, Cedar Rapids, for father.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant
Attorney General, Harold Denton, County Attorney, and Robert Hruska, Assistant
County Attorney, for appellee State.

Edward Crowell, Mt. Vernon, for intervenor.

Robert Davison, Cedar Rapids, for minor child.

Considered by Mahan, P.J., and Eisenhauer and Baker, JJ.

MAHAN, P.J.

A mother appeals the district court's order terminating her parental rights to A.S.W. We conclude termination was proper and in A.S.W.'s best interests, and we affirm.

I. Background Facts and Proceedings.

E.M.F. is the mother of A.S.W., who has never been in her care since his birth in December 2006. Hospital personnel contacted the Iowa Department of Human Services (DHS) when A.S.W. was born due to concerns over E.M.F.'s parenting skills. E.M.F. suffers from a long history of mental health issues, which have resulted in the termination of her parental rights to an older child and prevented her reunification with A.S.W. E.M.F. was hospitalized shortly before A.S.W.'s birth for hearing voices telling her to harm herself and then cutting her own wrist. Throughout the course of the case, E.M.F. failed to have stable housing and transportation, lacked basic parenting abilities, and resisted follow-through to address her mental health issues, although DHS offered a myriad of services to address these problems. She attended no supervised visitation appointments after May 2007. E.M.F.'s parental rights were terminated by the district court in November 2007, pursuant to Iowa Code sections 232.116(1)(b) (abandonment), (e) (adjudicated child in need of assistance, removed for six consecutive months, and parent hasn't maintained significant contact), (g) (adjudicated CINA, parent not responding to services, and additional time would not correct situation) and (h) (child three or younger, adjudicated CINA, removed for six of last twelve months, and child cannot be returned). E.M.F. appeals.

II. Scope of Review.

We review termination of parental rights de novo. *In re Z.H.*, 740 N.W.2d 648, 650-51 (Iowa Ct. App. 2007). Grounds for termination must be proved by clear and convincing evidence. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). Our primary concern is the best interests of the child. *Id.*

III. Issues on Appeal.

E.M.F. asserts that DHS did not provide her reasonable efforts and services to address her mental health issues and promote reunification with A.S.W. and that she should have been allowed an additional six months to work toward regaining care of A.S.W. While DHS has an obligation to make reasonable efforts toward reunification, a parent has an equal obligation to demand other, different, or additional services prior to a permanency or termination hearing or the issue is considered waived for further consideration on appeal. *In re A.A.G.*, 708 N.W.2d 85, 91 (Iowa Ct. App. 2005); *see also In re S.R.*, 600 N.W.2d 63, 65 (Iowa Ct. App. 1999); *In re H.L.B.R.*, 567 N.W.2d 675, 679 (Iowa Ct. App. 1997). The record reflects that DHS attempted on many occasions to provide E.M.F. with mental health evaluations, referrals for treatment and other services to address her issues—E.M.F. simply failed to follow through on virtually every effort put forth to her. No additional or different services were requested by E.M.F., nor did her attorney or the district court address services or a request for additional time at the termination hearing. There was no indication that the circumstances requiring removal would have been remedied by the end of six months, although E.M.F. had recently gained

her own housing. We conclude E.M.F. has not preserved a claim for additional services or additional time for our review on appeal.

E.M.F. also argues that the State did not prove she failed to maintain significant contact with her child under section 232.116(1)(e)(3). A juvenile court's order terminating parental rights will be upheld if only one ground for termination is established by clear and convincing evidence. *In re N.N.*, 692 N.W.2d 51, 55 (Iowa Ct. App. 2004). Clear and convincing evidence on the record supports termination under section 232.116(1)(h). No one at the time of termination disputed that A.S.W. had been adjudicated CINA, removed for the last six months, and could not be returned to E.M.F.'s care at that time. The child is thriving in the care of preadoptive foster parents in the only home he has ever known, and E.M.F. shows little signs of willingness to do what is necessary to regain her child. *See In re T.B.*, 604 N.W.2d 660, 662 (Iowa 2000) (noting the best predictor of a parent's future performance is their past behavior). We conclude clear and convincing evidence supports termination under section 232.116(1)(h), and affirm termination of E.M.F.'s parental rights is in A.S.W.'s best interests.

AFFIRMED.